

House Bill 1393 (AS PASSED HOUSE AND SENATE)

By: Representatives Abdul-Salaam of the 74<sup>th</sup>, Jordan of the 77<sup>th</sup>, Sinkfield of the 60<sup>th</sup>, Glanton of the 76<sup>th</sup>, Talton of the 145<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to change limitations upon the authority of local governments to levy sales and use taxes and other similar taxes and provide for an exemption to the total local sales and use tax cap otherwise applicable; to provide such exemption for a certain tax levied for purposes of a metropolitan area system of public transportation which is first levied after January 1, 2010, and before November 1, 2012; to provide for nonapplicability of such certain tax; to extend the expiration date for the exemption from the motor fuel tax for certain public transit and public campus transportation systems; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-8-6, relating to limitations upon the authority of local governments to levy sales and use taxes and other similar taxes, by revising subsection (b) as follows:

“(b) There shall not be imposed in any jurisdiction in this state or on any transaction in this state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent. For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and use tax which is levied in an area consisting of less than the entire state, however authorized, including such taxes authorized by or pursuant to constitutional amendment, except that the following taxes shall not count toward or be subject to such 2 percent limitation:

(1) A sales and use tax for educational purposes exempted from such limitation under Article VIII, Section VI, Paragraph IV of the Constitution;

(2) Any tax levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page 1008; the continuation of such amendment under Article XI, Section I, Paragraph

IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment; provided, however, that the exception provided for under this paragraph shall only apply in:

(A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code Section 48-8-111 in whole or in part for the purpose or purposes of a water capital outlay project or projects, a sewer capital outlay project or projects, a water and sewer capital outlay project or projects, water and sewer projects and costs as defined under paragraph ~~(3)~~ (4) of Code Section 48-8-200, or any combination thereof and with respect to which the county has entered into an intergovernmental contract with a municipality, in which the average waste-water system flow of such municipality is not less than 85 million gallons per day, allocating proceeds to such municipality to be used solely for water and sewer projects and costs as defined under paragraph ~~(3)~~ (4) of Code Section 48-8-200. The exception provided for under this ~~paragraph~~ subparagraph shall apply only during the period the tax under said subparagraph (a)(1)(D) is in effect. The exception provided for under this ~~paragraph~~ subparagraph shall not apply in any county in which a tax is being imposed under Article 2A of this chapter; or

(B) In a county in which the tax levied for purposes of a metropolitan area system of public transportation is first levied after January 1, 2010, and before November 1, 2012. Such tax shall not apply to the following:

(i) The sale or use of jet fuel to or by a qualify airline at a qualifying airport. For purposes of this division, a 'qualifying airline' means any person which is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire. For purposes of this division, a 'qualifying airport' means any airport in the state that has had more than 750,000 takeoffs and landings during a calendar year; and

(ii) The sale of motor vehicles;

(3) In the event of a rate increase imposed pursuant to Code Section 48-8-96, only the amount in excess of the initial 1 percent sales and use tax and in the event of a newly imposed tax pursuant to Code Section 48-8-96, only the amount in excess of a 1 percent sales and use tax; and

(4) A sales and use tax levied under Article 4 of this chapter.

If the imposition of any otherwise authorized local sales tax, local use tax, or local sales and use tax would result in a tax rate in excess of that authorized by this subsection, then such otherwise authorized tax may not be imposed."

**SECTION 2.**

Said title is further amended in Code Section 48-9-3, relating to the motor fuel tax, by revising subparagraphs (A) and (B) of paragraph (10) of subsection (b) as follows:

"(10)(A) During the period of July 1, ~~2008~~ 2010, through June 30, ~~2010~~ 2012, sales of motor fuel, as defined in paragraph (9) of Code Section 48-9-2, for public mass transit vehicles which are owned by public transportation systems which receive or are eligible to receive funds pursuant to 49 U.S.C. Sections 5307 and 5311 for which passenger fares are routinely charged and which vehicles are used exclusively for revenue generating purposes which motor fuel sales occur at bulk purchase facilities approved by the department.

(B) During the period of July 1, ~~2008~~ 2010, through June 30, ~~2010~~ 2012, sales of motor fuel, as defined in paragraph (9) of Code Section 48-9-2, for vehicles operated by a public campus transportation system, provided that such system has a policy which provides for free transfer of passengers from the public transportation system operated by the jurisdiction in which the campus is located; makes the general public aware of such free transfer policy; and receives no state or federal funding to assist in the operation of such public campus transportation system and which motor fuel sales occur at bulk purchase facilities approved by the department."

**SECTION 3.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

**SECTION 4.**

All laws and parts of laws in conflict with this Act are repealed.